

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Patent Application of:

John Michael Jensen

Serial No. 09/776,498

Filed: February 5, 2001

For: **METHOD AND SYSTEM TO FACILITATE
FEE BASED COMMUNICATION**

Examiner: Naresh Vig

Art Unit: 3629

Confirmation No. 9282

Commissioner for Patents
Post Office Box 1450
Alexandria, Virginia 22313-1450

REQUEST FOR EXAMINER INTERVIEW

Sir:

The undersigned hereby requests an interview with the Examiner to discuss the Office Action, in particular, the statements at pages 2-3 of the Action regarding the Declaration Under 37 CFR 1.131. In particular, at the bottom of page 2 of the Action, the Examiner states "the statement and exhibits provided by the Applicant does not demonstrate that the concept of all of the limitations in the claimed invention . . . were conceived prior to 03 February 2000." In the Action, the Examiner listed five (5) bullet-pointed items which the Examiner contends were the limitations for which it was not demonstrated that they were conceived prior to 03 February 2000.

In this connection, it is noted that the Examiner does not appear to have correctly stated the issue. That is, to support the rejection of the claims, the Examiner relies upon the teachings of keen.com having a publication date of February 29, 2000.

Thus, to establish prior invention with respect to keen.com, Applicant does not need to establish conception prior to February 3, 2000 as asserted by the Examiner. Rather, Applicant has to show conception of the invention prior to February 29, 2000 coupled with diligence from February 29, 2000 until reduction to practice, either actual, or constructive by filing of the subject application.

Thus, during the requested Interview, Applicant seeks clarification as to why the explanations set forth at pages 7-10 which cover each of the claim limitations set forth by the Examiner in the Action, does not demonstrate that Applicant conceived the invention prior to February 29, 2000 coupled with diligence which resulted in actual or constructive reduction to practice of the invention.

Since all of the prior art rejections rely upon keen.com for support, it is important for the Applicant to obtain an understanding as to whether or not the Examiner is using the proper criteria with respect to what Applicant is required to establish to show date of invention. That is, if as stated in the Action, the Examiner believes that the proper test is whether or not Applicant has shown conception prior to February 3, 2000 then Applicant will proceed accordingly. However, if the Examiner agrees that the proper test is conception prior to February 29, 2000 coupled with diligence which results in actual or constructive reduction to practice, then Applicant will request that another Office Action be issued which is based on this proper test.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN

Date:

12/8/2010

By:




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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being submitted electronically via EFS Web to the United States Patent and Trademark Office on the date shown below.

Linda Metz

 11/8/2010